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Town of Wallingford, Connecticut

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Testimony
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Chairman – Wallingford Public Utilities Commission
Before the
Planning & Development Committee
February 13, 2013

RE: HB-5725, An Act Concerning the Statewide Phosphorus Reduction Plan

Thank you for the opportunity to comment in ***support of HB-5725***, which ensures that a statewide Phosphorus Reduction Plan will be developed with the state Department of Energy & Environmental Protection (DEEP) and affected municipalities utilizing a collaborative model.

Last year, this committee was successful in winning passage of Public Act 12-155, which requires DEEP and representatives of Cheshire, Danbury, Meriden, Southington, Wallingford, Waterbury, and any other impacted municipality, to collaboratively evaluate and make recommendations on a statewide strategy to reduce phosphorus loading in inland nontidal waters to comply with EPA standards.

This process was adopted by the Connecticut General Assembly to help ensure that DEEP and the affected municipalities work together to explore cost-effective approaches for reducing phosphorus levels based on updated water quality data and proper scientific methods. We are hopeful that this may assist municipalities in exploring opportunities to utilize less expensive treatment methods and determine whether such methods are successful in reducing phosphorus to minimize the need for costly plant upgrades.

The Town of Wallingford and a number of other municipalities are currently faced with enormous compliance burdens associated with DEEP's proposed permit requirements relative to phosphorous discharge limits. According to DEEP's data, some 45 entities in Connecticut will be affected by the new discharge standards. For Wallingford, Cheshire, Southington and Meriden, the four towns along the Quinnipiac River, compliance with the proposed permit limits would require a total capital investment of approximately $58 million, a total increase in plant operating costs of $1.9 million per year and resultant rate increases that would range from 23% to 40% by town. For Wallingford alone the initial capital cost would be $19 million with a resulting 32% rate increase.

We are currently in the process of negotiating permits with DEEP and understand that the process outlined under Public Act 12-155 does not impact these negotiations. We appreciate DEEP's efforts to work with us to address concerns as part of the permit negotiations.

To achieve the goals outlined in Public Act 12-155, the Town of Wallingford supports the use of a collaborative model comparable to the model used to negotiate the state's stream flow regulations, as outlined in the attached document. As participants in the stream flow negotiations, the Town of Wallingford recognizes that a collaborative model was extremely useful in negotiating complex regulations in a respectful, thoughtful manner and this process would prove effective in fully achieving the goals of Public Act 12-155.

A collaborative process will allow DEEP and other stakeholders to examine 1) emerging data regarding phosphorus levels, 2) the linkage between in-stream levels of phosphorous and water quality impairment; and 3) the impact on water quality that might be achieved through a significant reduction in non-point sources of phosphorous. For example, the USGS recently presented information on historical phosphorus levels in Connecticut's streams and rivers. The data showed that for all but one river, the Naugatuck, phosphorus concentrations and loads have continued to decline since 1974, even with increased population growth. In addition, DEEP presented information regarding their plans to collect new data from 2012 to 2015 to evaluate aquatic life response to cultural eutrophication in streams and rivers. This is data that would be useful to discuss in developing a statewide phosphorus reduction strategy.

A collaborative approach to developing a statewide phosphorus reduction plan would also be helpful in addressing the following the issues that relate to both the Quinnipiac River basin and to the basins in which the other regulated cities and towns are located:

- Whether significant reductions in point source discharges of phosphorous are the most cost-effective means of improving stream quality;
- Whether other scientific methods used in other states would provide the regulated communities with more flexibility in achieving water quality standards in a more cost-effective manner (to reduce burdens on municipalities and residential and business customers);
- What timeframe is necessary to provide municipalities with sufficient time to develop and implement compliance plans; and
- What efforts should be made to ensure that the regulated communities are not subjected to piecemeal approaches to implement water quality standards that will necessitate ongoing additional plant upgrades and increased sewer fees for residents and businesses.

We therefore ***support HB-5725***, which would allow the state to develop a comprehensive, workable framework for achieving phosphorus reduction.

In addition, given the costs associated with compliance, **we urge the committee to incorporate provisions in the bill to increase the percentage of phosphorus reduction project costs eligible for reimbursement under the Clean Water Fund from 30% to 50%.** Please note that this would assist us in complying with the phosphorus standards but would not diminish the need for a collaborative process to develop a statewide phosphorus reduction plan.

Public Act 12-155 (SB-440)

AN ACT CONCERNING PHOSPHOROUS REDUCTION IN STATE WATERS

Proposed Framework for Collaboration

Public Act 12-155 requires the Department of Energy and Environmental Protection (DEEP) and the chief elected officials or their representatives of Cheshire, Danbury, Meriden, Southington, Wallingford, Waterbury, and any other impacted municipality, to collaboratively evaluate and make recommendations on a statewide strategy to reduce phosphorus loading in inland non tidal waters to comply with EPA standards. The strategy must include:

1. A statewide response to address phosphorous nonpoint source pollution;
2. Approaches for municipalities to use to comply with EPA standards for phosphorous reduction, including guidance for treatment and potential plant upgrades; and
3. The proper scientific methods for measuring current phosphorous levels in inland non tidal waters and making future projections of phosphorous levels in these waters.

In order to achieve these goals, we recommend that the DEEP adopt a framework for collaboration comparable to the model used to successfully negotiate the state's stream flow regulations. This model enabled negotiations on a very complex and controversial subject to move forward in a productive, informative and respectful manner.

This model is also consistent with DEEP Commissioner Daniel Esty's vision for the agency – to promote environmentally sustainable policies that are compatible with economic development and job growth – which allowed stakeholders to find the necessary balance to negotiate stream flow regulations. This approach recognized that government and the regulated community must work together to develop policies that make sense from an environmental standpoint as a well as an economic one. We urge DEEP to utilize a collaborative model that would include the following components:

1. **Use of Third Party Neutral:** Utilize a third party neutral to assist the participating parties in identifying areas of common ground, framing areas of agreement and contention and in helping the group reach consensus where possible. Each participating group should also be invited to share their concerns about the other groups' position, motivation and arguments and allow the group to discuss those concerns, providing participants with greater understanding and appreciation for the positions of each participant. This helps develop greater trust among participating groups that everyone at the table is committed to resolving these issues in a thoughtful manner.

2. **Organizational Meeting to Agree on Procedures and Topics**: Each participating group identifies a limited number of individuals to attend an organizational meeting to discuss and agree upon the ground rules for the discussions (number of participants, format for discussions, etc.) and to identify the topics for discussion. We believe that, in order to succeed in achieving the goals set forth in PA 12-155, these topics must include the following:
   - The range of available scientific approaches with which to evaluate the role of nutrients in stream impairment.
   - The methods to be used to measure the success of phosphorous reduction activities.
   - The establishment of reasonable expectations for determining what level of phosphorous reduction can be attained in a cost-effective manner.
   - The consideration of all contributing sources of phosphorous and the development of a comprehensive plan for addressing these sources in a cost effective and balanced manner.

3. **Agreement on Process:** Ultimately, the group would decide the number of core participants representing each perspective with some groups rotating in an expert participant or two as needed for specific discussions. "Observers" who do not otherwise have a role in the meeting would not be permitted. The group may decide to create subgroups that will conduct focused discussions on specific issues. However, any decisions on those issues would be made by the group as a whole.

4. **Informative Discussions:** Participants would be encouraged to circulate materials or proposals among the group and/or engage in any pre-meeting discussions to help in framing issues, developing options, and giving one another a chance to review and consider proposals before the meeting date.

5. **Regular Meetings:** The group would meet on a regular basis and work through specific issues on a case by case basis and create language that reflects the consensus of the group.

Clearly, a process in which state agencies, lawmakers and interested parties work together in partnership is a powerful tool for developing thoughtful, balanced policies that benefit the environment and make economic sense for our communities.

We believe that a collaborative model such as this is necessary to fully achieve the goals of Public Act 12-155.